

DEPARTMENT OF FOOD AND AGRICULTURE

MILK AND DAIRY FOOD SAFETY BRANCH

MODIFIED TEXT

MILK INSPECTION SERVICES: FROZEN DAIRY PRODUCTS

Legend for Modified Text

1. Added text is shown in double underline.
2. Deleted text is shown in double underline and strikeout.
3. Text shown in single underline OR strikeout is text already noticed for a 45-day public comment period and that public comment period closed at 5:00 p.m., on July 20, 2009.

All written comments must address the modified text only

The Department of Food and Agriculture, Milk and Dairy Food Safety Branch, proposes the following changes to Article 5, Chapter 1, Division 2 of Title 3 of the California Code of Regulations:

1) Former section 429 had been repealed. The Department is proposing to adopt new section 429 under Article 5, Chapter 1, Division 2 of Title 3 of the California Code of Regulations, to read as follows:

Section 429. Frozen Dairy Products; ~~Weight~~

For the purposes of this article, frozen dairy products include ice cream, frozen yogurt, sherbet, yogurt sherbet, frozen dairy dessert, frozen desserts, frozen dairy products labeled as gelato, or other similar frozen dairy products as specified in sections 33704.7 and 33704.8 of the Food and Agricultural Code and 21 CFR Part 135, and labeled in accordance with 21 CFR Part 101.

NOTE: Authority cited: Sections 407, 36601, and 36807, Food and Agricultural Code. Reference: Sections 33704.7, 33704.8, 34008, 36605, 36806, 36861, 36951, 36952 and 36991, Food and Agricultural Code.

2) Former section 430 had been repealed. The Department is proposing to adopt new section 430 under Article 5, Chapter 1, Division 2 of Title 3 of the California Code of Regulations, to read as follows:

Section 430. ~~Weight of Fresh Egg Yolks~~ Reconstitution of Mix or Premix to Manufacture Frozen Dairy Products.

~~(a) Mix used in the manufacture of frozen dairy products may be in final, condensed or dry form and its use shall be subject to the following conditions:~~

~~(1) Condensed or dry mix may be reconstituted only by establishments with a semifrozen milk products plant license or with a limited manufacturing permit. Pursuant to Food and Agricultural Code section 33704, reconstitution of condensed or dry mix is prohibited at~~

facilities issued a limited packaging permit. Mix that is reconstituted with water shall only be manufactured into frozen dairy products served directly to customers, without packaging of any type, for consumption on the immediate premises in, or from, rooms where food is served to the public. This subsection does not apply to licensed frozen milk products plants that pasteurize reconstituted mix with approved and properly operated pasteurization equipment.

(2) The mix shall have been pasteurized.

(3) Water used to reconstitute mix shall conform to Department of Public Health standards for public supplies of drinking water.

(4) Reconstitution of mix with water shall occur on the premises of a milk products plant with utensils and equipment that meet the requirements of sections 33763, 33764, 33765, and 33766 of the Food and Agricultural Code.

(5) Reconstituted mix shall be poured directly into the freezing device or refrigerated at a temperature not to exceed 45 degrees Fahrenheit, and so maintained until frozen. Reconstituted mix shall not be stored for more than 24 hours.

(6) Any reconstituted frozen dairy product that is not sold, and any freezing device salvage from the manufacture of reconstituted frozen dairy products shall not be reused as a mix.

(7) Mix that is reconstituted with milk or any milk product shall immediately be pasteurized in approved and properly operated pasteurization equipment. This subsection does not apply to facilities operating exclusively under a limited manufacturing permit pursuant to section 35016 of the Food and Agricultural Code.

(a) Except as specified in subsection (b), a mix or premix that is used to manufacture frozen dairy products shall not be reconstituted or recombined with water, milk or any milk product without being pasteurized immediately afterwards in approved and properly operated pasteurization equipment that meets the requirements of sections 34001 or 34001.5 of the Food and Agricultural Code, and sections 582, 583, 584, 585 and 602(e) of Title 3, California Code of Regulations.

(b) Mix or premix used to manufacture frozen dairy products, except frozen yogurt, may be in condensed or dry form and reconstituted with water at semi-frozen milk products plants operating under provisions of section 33704 of the Food and Agricultural Code, or at establishments with a limited manufacturing permit operating under section 35016 of the Food and Agricultural Code, subject to all of the following conditions:

(1) The mix or premix to be reconstituted with water shall have been pasteurized at the plant where it was packaged.

(2) Water used to reconstitute mix or premix shall conform to Department of Public Health standards for public supplies of drinking water.

(3) Reconstitution of mix or premix with water shall occur on the same premises as the freezing device in which the mix or premix will be used and be conducted with utensils and equipment that meet the requirements of sections 33763, 33764, 33765, and 33766 of the Food and Agricultural Code.

(4) Reconstituted mix shall be poured directly into the freezing device or refrigerated at a temperature not to exceed 45 degrees Fahrenheit, and so maintained until frozen. Reconstituted mix or premix shall not be stored for more than 24 hours.

(5) Any reconstituted frozen dairy product that is not sold, and any freezing device salvage from the manufacture of reconstituted frozen dairy products shall not be reused as a mix.

(6) Fruits or flavorings added to reconstituted mixes by semi-frozen milk products plants shall only be from factory-filled containers labeled in compliance with 21 CFR Part 101.

(c) Pursuant to Food and Agricultural Code section 33704, reconstitution of condensed or dry mix or premix is prohibited at facilities issued a limited packaging permit.

NOTE: Authority cited: Sections 407, 36601, and 36807, Food and Agricultural Code. Reference: Sections 32513, 33704, 33704.7, 33704.8, 33763, 33764, 33765, 33766, 34001, 34001.5, 34008, 35011, 35016, 35221, 36605, 36802, 36806, 36861, 36951, 36952, and 36991 and 36992, Food and Agricultural Code.

3) Amend section 441 under Article 5, Chapter 1, Division 2 of Title 3 of the California Code of Regulations, to read as follows:

Section 441. Frozen Yogurt Mix--Fruits and Flavorings.

~~(a) Frozen Yogurt Mix or Lowfat Frozen Yogurt Mix~~, when used by manufacturers operating under the provisions of ~~Section~~ section 33704 of the Food and Agricultural Code, shall be obtained in preflavored form from a licensed mix manufacturer, unless fruits or flavoring are added to mixes by the soft-serve operator directly from factory-filled containers labeled in compliance with ~~the Code of Federal Regulations 21 CFR Part 101~~. ~~The addition of any ingredient other than fruits and flavorings, including water, to a mix by the semi-frozen milk products plant operator shall constitute adulteration~~ The addition of any ingredient other than fruits and flavorings, including water, to a mix by the semi-frozen milk products plant operator shall constitute adulteration.

NOTE: Authority cited: Sections 407 and ~~36994~~ 36601, and 36807, Food and Agricultural Code. Reference: Sections 32912, 33704, and 33704.5 and ~~36994~~, Food and Agricultural Code.

[end]